

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

Eolas Technologies Incorporated,

Plaintiff,

vs.

**Adobe Systems Inc., Amazon.com, Inc.,
Apple Inc., Argosy Publishing, Inc.,
Blockbuster Inc., CDW Corp.,
Citigroup Inc., eBay Inc., Frito-Lay, Inc.,
The Go Daddy Group, Inc., Google Inc.,
J.C. Penney Company, Inc., JPMorgan
Chase & Co., New Frontier Media, Inc.,
Office Depot, Inc., Perot Systems Corp.,
Playboy Enterprises International, Inc.,
Rent-A-Center, Inc., Staples, Inc., Sun
Microsystems Inc., Texas Instruments Inc.,
Yahoo! Inc., and YouTube, LLC**

Defendants.

Civil Action No. 6:09-CV-00446-LED

**PLAINTIFFS' NOTICE OF ISSUES
TO BE TRIED TO THE BENCH**

Pursuant to the Court's Docket Control Order Plaintiffs The Regents of the University of California and Eolas Technologies Incorporated (collectively "Plaintiffs") respectfully submit this notice of issues to be tried to the bench. Plaintiffs identify the following issues as issues to be tried to the bench:

1. Defendants' Inequitable Conduct Claim
2. Defendants' License Defense
3. Defendants' Laches Claim (if Defendants are maintaining this claim, even though Plaintiffs are not seeking pre-suit damages)

Plaintiffs additionally propose that the license issue be resolved based upon the already-filed license related briefing on the motions for summary judgment as opposed to filing findings of fact / conclusions of law on the issue that would substantively be duplicative of the already-filed briefing.

Dated: January 5, 2012.

McKOOL SMITH, P.C.

/s/ Mike McKool

Mike McKool

Lead Attorney

Texas State Bar No. 13732100

mmckool@mckoolsmith.com

Douglas Cawley

Texas State Bar No. 04035500

dcawley@mckoolsmith.com

Holly Engelmann

Texas State Bar No. 24040865

hengelmann@mckoolsmith.com

McKOOL SMITH, P.C.

300 Crescent Court, Suite 1500

Dallas, Texas 75201

Telephone: (214) 978-4000

Telecopier: (214) 978-4044

Kevin L. Burgess

Texas State Bar No. 24006927

kburgess@mckoolsmith.com

Josh W. Budwin

Texas State Bar No. 24050347

jbudwin@mckoolsmith.com

Gretchen K. Curran

Texas State Bar No. 24055979

gcurran@mckoolsmith.com

Matthew B. Rappaport

Texas State Bar No. 24070472

mrappaport@mckoolsmith.com

J.R. Johnson

Texas State Bar No. 24070000

jjohnson@mckoolsmith.com

McKOOL SMITH, P.C.

300 West Sixth Street, Suite 1700

Austin, Texas 78701

Telephone: (512) 692-8700

Telecopier: (512) 692-8744

Robert M. Parker
Texas State Bar No. 15498000

rmparker@pbatyler.com

Robert Christopher Bunt
Texas Bar No. 00787165

rcbunt@pbatyler.com

Andrew T. Gorham
Texas State Bar No. 24012715

tgorham@pbatyler.com

PARKER, BUNT & AINSWORTH, P.C.

100 E. Ferguson, Suite 1114

Tyler, Texas 75702

(903) 531-3535

(903) 533-9687- Facsimile

ATTORNEYS FOR PLAINTIFF

EOLAS TECHNOLOGIES INC.

AND THE REGENTS OF THE

UNIVERSITY OF CALIFORNIA

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this document was served on all counsel who have consented to electronic services on January 5, 2012. Local Rule CV-5(a)(3)(A).

/s/ John B. Campbell
John B. Campbell